

EPCRA- 03-2003-0361

US Environmental Protection Agency
Region 3
1650 Arch St.
Philadelphia, PA 19103-2029

To Whom It May Concern:

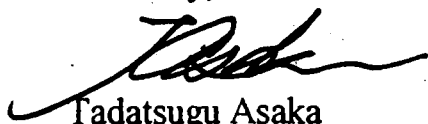
Kyowa America Corporation is currently in the review-phase of a Title V operating permit application. As part of the application review, we were provided a Part 1 MACT application.

During our review of the regulations for completing the MACT application, we discovered a reporting requirement we have not been doing. We have not provided Toxic Release Inventories. We file annual reports for air emissions and waste with the State of Pennsylvania and we have been ISO 14001 certified since March 27, 2001, but have not filed any TRI's.

We are a company that continuously seeks to reduce our impact on the environment and we have made real progress in this area with the installation of a thermal oxidizer and eliminating nearly 99% of our solvent based paint usage. It is most distressing to find that, despite of our efforts, we have not been complying with this EPA requirement to provide Toxic Release Inventories.

We want to take whatever steps necessary to ensure we correct this oversight immediately. The contact person at this facility for environmental programs is Shawn Jennings and he may be phoned directly at 724-627-4700 ext.131 in order that we may address this issue with the urgency it deserves.

Sincerely,



Tadatsugu Asaka
Vice President and General Manager
Kyowa America Corporation
Waynesburg - Facility

RECEIVED

JUL 24 2003

Air Protection Division (3AP11)

317 East Ray Ferman Highway
Waynesburg, PA 15370

RECEIVED

JUL 24 2003



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF AIR QUALITY**

Air Protection Division (3AP11)

Part 1 Maximum Achievable Control Technology (MACT) Application**Major Facilities Subject to Section 112(j) Provisions (40 CFR 63.50 through 63.56)****National Emission Standards for Hazardous Air Pollutants (NESHAPs), 40 CFR Part 63****Submit two copies to the Regional Office and a copy to EPA Region III***

SOURCE IDENTIFICATION			
1. Facility Name KYOWA AMERICA CORPORATION			
2. Plant Name KYOWA AMERICA CORPORATION			
3. Facility ID No. 13-2670115-1			
PHYSICAL LOCATION			
4. Street Address: 317 E. Roy Furman Highway			
5. City	Waynesburg	6. County	Green
7. State	PA	8. Zip Code	15370
MAILING ADDRESS (if different than physical location)			
9. Address			
10. City		11. County	
12. State		13. Zip Code	

APPLICABILITY DETERMINATION	
14. Is your facility a major source of hazardous air pollutants (HAP)? If not, you need not to complete the rest of this form. A major source is any contiguous area under common control that emits or has the potential to emit considering controls, in the aggregate, at least 10 tons per year of any single HAP or 25 tons per year total HAPs.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
15. Do you own or operate an affected source in a source category for which EPA has not promulgated standards under 40 CFR Part 63? If so, which one(s)? _____ Subpart PPPP _____ If not, you need not complete the rest of this form. (See Table of Promulgated/Proposed/Upcoming Regulations at www.epa.gov/ttn/atw/eparules.html to determine if your standard has not been promulgated.)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

6. Provide a brief description of your facility:

Kyowa manufactures plastic parts for the television and automobile industry using injection molding machines. Some of the parts we mold for the Television industry must be finished. In our finishing operation we paint the parts.

17. Provide a brief description of the affected source(s) in the relevant source category(ies):

Kyowa America Corporation's sources are our Thermal Oxidizer unit and our paint booths in our Finishing Operation. Our paints are water based and contain HAP's consisting mostly of ethylene glycol monobutyl ether and di-ethylene monobutyl ether.

18. Identify any source(s) for which a Section 112(g) MACT determination has been made:

CERTIFICATION OF TRUTH, ACCURACY AND COMPLETENESS

Note: A responsible official as defined in 25 Pa Code 121.1 must sign this certification.
Applications without a signed certification will be returned as incomplete.

19. I certify under penalty of law that based on information and belief formed after reasonable inquiry, the statements and information contained in this application are true, accurate, and complete.

Responsible Official:


Signature

Plant President / General Manager
Title

Tadatsugu Asaka
Printed Name of Signatory

7-8-03
Date

• EPA Region III Mailing Address:

Makeba Morris, Chief
Permits and Technical Assessment Branch (3AP11)
US EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

APR 26 2004

Tadatsugu Asaka
Kyowa America Corporation
317 E. Roy Furman Highway
Waynesburg, Pennsylvania 15370

Re: Self-disclosure of possible violations of the Emergency
Planning and Community Right-to-Know Act

Dear Mr. Asaka:

The U.S. Environmental Protection Agency ("EPA") Region III received your letter of July 8, 2003 in which Kyowa America Corporation disclosed that it had discovered possible violations of Section 313 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11023, at its facility located in Waynesburg, Pennsylvania. By this letter, EPA is requesting additional information pertaining to the possible violations at the facility to help determine whether Kyowa America Corporation's self-disclosure of the violations satisfies the conditions set forth in Section II.D of the *Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations* ("Self-Disclosure Policy"), 65 Fed. Reg. 19618 (April 11, 2000).

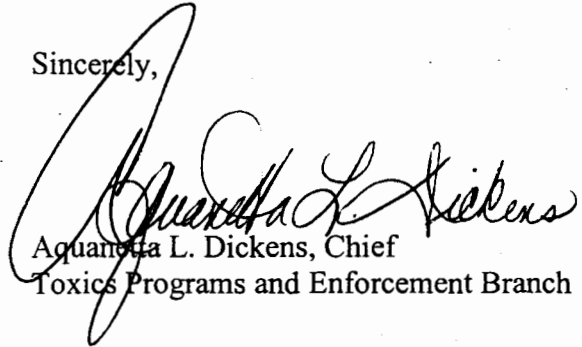
Enclosed is a questionnaire requesting additional detailed information needed by EPA to complete its evaluation of Kyowa America Corporation's disclosed violations at the facility. Please send your response to this request within twenty-one (21) days to Mr. Craig E. Yussen of my staff at the following address:

Craig E. Yussen, Chemical Engineer
U.S. Environmental Protection Agency, Region III
Toxics Programs and Enforcement Branch (3WC33)
1650 Arch Street
Philadelphia, PA 19103-2029

EPA appreciates Kyowa America Corporation's efforts to identify and disclose its violations to EPA. Because violations of EPCRA may result in an enforcement action, Kyowa America Corporation should ensure that all suspected violations have been corrected. As explained in the *Self-Disclosure Policy*, in the event EPA takes enforcement action, EPA will not seek gravity-based (*i.e.*, non-economic benefit) penalties for violations disclosed in accordance with the conditions set forth in the *Self-Disclosure Policy*. Notwithstanding this letter, EPA reserves the right to take any action pursuant to any applicable authority.

Thank you for your attention to this request. If you have any questions regarding this matter, please call Mr. Yussen at (215) 814-2151.

Sincerely,

A handwritten signature in black ink, appearing to read "Aquanetta L. Dickens". The signature is fluid and cursive, with the first name being the most prominent.

Aquanetta L. Dickens, Chief
Toxics Programs and Enforcement Branch

Enclosures

cc: Elizabeth Barnes (3EC00)

SELF-DISCLOSURE QUESTIONNAIRE

Please provide the information requested below for the violations of EPCRA Section 313 disclosed to the U.S. Environmental Protection Agency ("EPA") by Kyowa America Corporation in its letter of July 8, 2003. The July 8, 2003 letter pertains to the facility located on 317 E. Roy Furman Highway in Waynesburg, Pennsylvania (regarded hereinafter as "the facility"). Correlate each answer to the specific violation to which it applies.

INFORMATION ON THE VIOLATION

1. Provide the the number of full-time employees at the facility during calendar years 2000 and 2001, and 2002.
2. Provide the total corporate gross sales during calendar year 2003. If such a sales figure is not available for 2003, provide this figure for calendar year 2002.
3. State, in detail, the facility's reporting violations under EPCRA Section 313. Specifically, provide the years and chemicals for which the facility believes it should have filed a toxic chemical release report, but failed to do so in a timely manner.
4. Regarding the years and chemicals referenced in the facility's response to Question 3, state the amount of each chemical in which the facility manufactured, processed, or "otherwise-used" during each year in violation.

INFORMATION ON HOW THE DISCLOSURE MEETS THE *SELF-DISCLOSURE* POLICY CRITERIA

Condition 1--Systematic Discovery

5. For each violation referenced in the facility's response to Questions 3 and 4, state whether the violation was discovered by means of either: (a) an environmental audit, or (b) a compliance management system that reflects due diligence in detecting and correcting violations. Please refer to the definition of "environmental audit" and "compliance management system" provided in Section II.B of the *Self-Disclosure Policy*.
6. If Kyowa America Corporation discovered any violation through a "compliance management system" as defined in EPA's *Self-Disclosure Policy*, provide the following:
 - a. an explanation of how Kyowa America Corporation's practices and procedures leading to the discovery of the violation constituted a "compliance management system";
 - b. copies of compliance policies, standards, and procedures describing how Kyowa America Corporation's employees are expected to comply with environmental requirements;

- c. documents describing the assignment of responsibility and accountability for ensuring corporate and facility compliance with environmental policies, standards, and procedures;
- d. a description of Kyowa America Corporation's efforts to assure proper implementation of its environmental compliance policies, standards, and procedures;
- e. a description of Kyowa America Corporation's efforts to communicate environmental compliance standards and procedures to its work force;
- f. a description of Kyowa America Corporation's appropriate incentives to managers and employees to perform in accordance with the compliance policies, standards and procedures, including consistent enforcement through appropriate disciplinary mechanisms; and
- g. a description of Kyowa America Corporation's procedures, including monitoring and auditing systems, to detect, correct, and prevent the recurrence of environmental violations.

7. If any violation was discovered by means of an environmental audit, as defined in Section II.B of the *Self-Disclosure Policy*, provide the following:

- a. the date(s) on which the environmental audit or systematic procedure or practice that identified the violations was conducted.
- b. a copy of written environmental audit policies and procedures for the facility where the disclosed violations occurred, including any policies and procedures that indicate the scope of the audit, the process for examining audit findings, the protocol for communicating audit results to management, auditor conflict of interest policy, auditor education and training requirements, and follow-up measures.
- c. the frequency of environmental audits of the facility where the disclosed violations occurred, and the frequency of audits related to compliance with the law involved in this disclosure. Include the dates on which the last two environmental audits were conducted and the dates on which the last two audits that included the statute involved in this disclosure were conducted at the facility prior to the date of the disclosure.
- d. a copy of any written policy or directive applicable to the facility where the disclosed violations occurred that requires correction of environmental violations and procedures to prevent their recurrence. If no such policy or directive exists, please so state.
- e. a description of the relationship between the facility where the violations occurred and the person(s) responsible for conducting environmental audits. Explain how Kyowa America Corporation ensures that the auditors' tasks or inquiries were carried out in an objective and unobstructed manner. Explain how personal, financial, or other potential conflicts of interest between the individuals conducting an audit and Kyowa America Corporation are prevented.

8. Identify the name, title, and employer of each individual who discovered the violations.

Condition 2--Voluntary Discovery

9. Were the disclosed violations identified through an activity which Kyowa America Corporation was legally required, by a federal or state statute, regulation, or permit, to perform and/or report on? If so, identify the authority under which the activity was required.

Condition 3--Prompt Disclosure

10. Provide the date on which the disclosed violations were initially discovered. If any violation was discovered by an independent auditor (a person not employed by Kyowa America Corporation), provide the date and the manner in which Kyowa America Corporation was made aware of the violation. If Kyowa America Corporation believed additional analysis or information was needed after the initial discovery to determine whether a violation existed, state the reasons for the additional analysis.

11. Did Kyowa America Corporation disclose the violations within twenty-one (21) calendar days of the date of the initial discovery, or such shorter period as may be provided by law? If not, please explain, in detail, the reasons that the violations were not disclosed within 21 days of the initial discovery.

Condition 4--Independent Discovery and Disclosure

12. Has Kyowa America Corporation received prior notification of a citizen suit or third party legal action for the violations disclosed or a closely related violation? If so, please describe the action and provide a copy of the notice.

13. Did Kyowa America Corporation receive notice of a planned federal, state, or local agency inspection or investigation or receive an information request from a federal, state, or local agency prior to disclosing the violations described in Kyowa America Corporation's letter of July 8, 2003?

Condition 5--Correction and Remediation

14. Explain in detail all measures by Kyowa America Corporation to correct and remedy the violations. Provide an estimate of the length of time it took or will take to complete these measures. If Kyowa America Corporation estimates that more than 60 days are needed to correct the violations, please explain fully the basis of the estimate and provide the opinion of any technical or engineering expert relied upon to arrive at that estimate.

Condition 6--Prevent Recurrence

15. Describe all measures which Kyowa America Corporation *agrees* to implement in order to ensure that the violations disclosed will not recur. Include any improvements made to Kyowa America Corporation's auditing or due diligence procedures to prevent recurrence of the violations.

Condition 7--No Repeat Violations

16. Within the three years preceding the disclosed violations, did a federal, state, or local agency issue a notice of violation, enforcement action, or settlement thereof to the facility, for the type of violation disclosed by Kyowa America Corporation, or a closely related violation? If so, provide a copy of each action.

17. Identify each violation of federal, state, or local environmental requirements at any Kyowa America Corporation facility within the five years preceding the disclosed violations.

Condition 8--Other Violations Excluded

18. Did the disclosed violations result in any serious actual harm to human health or the environment? Provide a full explanation of your response to this question.

19. Did the disclosed violations have the potential to present any form of endangerment to public health or the environment? Provide a full explanation of your response to this question.

20. Did the disclosed violations violate the specific terms of a judicial or administrative order or consent agreement? If so, please provide a copy of the order or agreement violated.

Certification

On the last page of your response to this Questionnaire, include the following certification for signature by the president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or other executive with authority to perform similar policy or decision-making functions of the corporation:

I certify that I am fully authorized by Kyowa America Corporation to provide the above information on its behalf to the U.S. Environmental Protection Agency regarding Kyowa America Corporation's self-disclosure of potential environmental violations as described in its letter dated July 8, 2003. I certify under penalty of law that this response and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted.

Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature _____
Name _____
Title _____

Confidential Business Information

Kyowa America Corporation is entitled to assert a claim of business confidentiality covering all or any part of the information it submits, in the manner described in 40 C.F.R. § 2.203(b). Information subject to a claim of business confidentiality will be made available to the public only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. If a claim of business confidentiality is not asserted at the time the required information is submitted to EPA, EPA may make this information available to the public without further notice to you.

This request for submission of information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501 *et seq.*

Kyowa America Corporation

Job Description (revised 3/11/03)

Job Title: Quality/Environmental Engineer

Department: Quality Reports to: General Manager

Classification: Exempt ☒ Non Exempt ☐

Job Summary:

Provides Quality Assurance direction to the Production Department to ensure the expectations of our customers are met. Coordinates QS and ISO programs.

Essential Functions:

- Organizes and promotes Quality Improvement efforts.
- Maintains good relationship with external customers in terms of quality.
- Primary contact point for television part quality issues and related environmental issues.
- Ensures quality standards are maintained by the Production Department by conducting continuous sampling.
- Provides training and daily communication to the Production department as required to maintain proper inspection techniques and documentation.
- Continuously monitors and documents our Cost of Quality.
- Coordinates all internal and external CARs to ensure responses are accurate and timely.
- Coordinates and reviews all internal audits and the results.
- Coordinates all QS9000 assessments, audits, auditor training and procedure library updates. Corporate liason.
- Coordinates all ISO14000 assessments, audits, training and procedure library updates. Corporate liason.
- Responsible for the Quality equipment calibration.
- Ensures regulatory compliance by attending, scheduling and/or conducting appropriate regulatory training as necessary and monitoring EMS programs.
- Point of contact for all regulatory agencies. (OSHA, DEP etc.)
- As MSDS coordinator, maintains MSDS library on server.
- Performs other duties or projects as assigned by management.

Regulatory Tracking and Analysis

Procedure number: **4.5-02**

Page 2 of 2

5.3 Tracking & Evaluation of Regulatory Activity

- 1) Periodically, an evaluation of applicable laws and regulations will be conducted for existing activities, products and services conducted by Kyowa.
- 2) The SMR(s) will employ a variety of techniques and information sources to track, identify and evaluate applicable laws and regulations. These may include, but are not limited to:
 - The federal government's Federal Register and Diario Oficial.
 - Commercial services and databases.
 - Information provided by trade associations and membership organizations.
 - Communications with federal, state and local regulatory agencies and authorities.
 - Corporate and company environmental meetings.
 - Periodic refresher environmental training.
- 3) The SMR(s) will monitor these information sources on a regular basis to ensure that new regulations and issues are identified in a timely manner.
- 4) In addition, the *Permit Matrix* (Form No. GF-9) and *Compliance Calendar* (Form No. GF-10) will be used to keep track of permit renewal dates, etc.
- 5) As necessary, outside resources (e.g., consultants, attorneys, etc.) may be called upon to assist in evaluating applicable laws and regulations or in developing programs in response to applicable laws and regulations. Where outside resources are used for this purpose, the SMR(s) will be responsible for coordinating the effort.
- 6) Building blueprints for each manufacturing facility—which may be used during the EMS evaluation process—will be controlled via the *Building Blueprint Log* (Form No. GF-13).

5.4 Updating Regulatory Activity

- 1) The need for follow-up evaluations will be determined based on changes in the applicable laws and regulations or significant changes in Kyowa's facilities, processes, activities, products or services (as described in *Management of Change* [4.4-12]).
- 2) The SMR(s) will ensure that appropriate changes are developed and implemented in cases where new environmental regulations and/or corporate environmental policies could affect the continued performance of the EMS.
- 3) If periodic site audits (i.e., planned environmental inspections, internal compliance audits, ISO 9001/QS 9000 audits, EMS audits, etc.) or management reviews indicate or identify that additional laws and regulations must be tracked and evaluated, the SMR(s) will ensure that these activities take place.

5.5 Other Requirements

As necessary, the SMR(s) will ensure that Level 3 procedures are established and maintained for other requirements applicable to the environmental aspects of Kyowa's activities products, or services. These other requirements may include industry standards, customer standards, etc.



EMS Procedures

Section 4.5

Regulatory Tracking and Analysis

Procedure number: **4.5-02**

Page 1 of 2

1.0 Objective

To ensure that Kyowa will identify, have access to and evaluate laws, regulations and other requirements which apply to the environmental aspects of its activities, processes, products and services.

2.0 Scope

This procedure will cover laws, regulations and other requirements which apply to the environmental aspects of activities, processes, products and services conducted by Kyowa. Kyowa will take these requirements into consideration when setting its Environmental Objectives and Targets (see *Setting and Tracking Environmental Objectives and Targets* [4.3-03]).

3.0 Definitions

4.0 References

- 1) *Summary Listing of Applicable Federal, State & Local Laws & Regulations*, Form No. GF- 11
- 2) *Permit Matrix*, Form No. GF- 9
- 3) *Compliance Calendar*, Form No. GF-10
- 4) *Building Blueprint Log*, Form No. GF-13

5.0 Procedure

5.1 Establishing Internal Records of Regulatory Activity

- 1) A listing of the applicable laws and regulations will be found in the *Summary Listing of Applicable Federal, State & Local Laws and Regulations*, (Form No. GF-11).
- 2) The ISO 14001 Site Management Representative(s) [hereafter the SMR(s)] will track, compile and maintain copies of significant applicable environmental laws and regulations.
- 3) Where copies of such laws and regulations are not maintained at Kyowa's offices, the SMR(s) will ensure that ready access is available from other sources (i.e., the sources listed in **Section 5.3**).
- 4) The SMR(s) will identify those laws and regulations related to the activities, processes, products and services conducted by Kyowa and evaluate their potential impacts.
- 5) The SMR(s) will track and maintain updated records and reference documents for environmental laws and regulations.

5.2 Internal Communication about Regulatory Requirements

- 1) The SMR(s) will disseminate information on applicable laws and regulations and their potential impacts to the activities, processes, products and services conducted by Kyowa to appropriate personnel.
- 2) Determining which personnel will be informed and the method for providing the information will be at the SMR(s)' discretion, based on the circumstances of each situation.
- 3) In addition, SMR(s) will also disseminate information regarding any changes in regulations which could affect operations or administration.



Environmental Policy

Kyowa America Corporation is committed to the continual improvement of our Environmental Management System (EMS) to minimize potential impacts to the environment which may result from our operations, related activities and services.

Through our EMS, Kyowa resolves to:

- *Prevent pollution and minimize waste;*
- *Adhere to relevant environmental laws and regulations;*
- *Communicate our policy to our employees; and*
- *Implement environmental management programs in which our environmental objectives and targets will be set and periodically reviewed by our management to ensure the suitability, adequacy and effectiveness of the EMS.*

— The Management

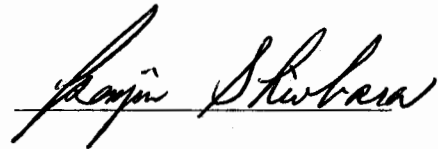
This environmental policy is available to the public through our Human Resources Department.



Certification

I certify that I am fully authorized by Kyowa America Corporation to provide the above information on its behalf to the U.S. Environmental Protection Agency regarding Kyowa America Corporation's self-disclosure of potential environmental violations as described in its letter dated July 8, 2003. I certify under penalty of law that this response and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature



Name

KENJIRO SHIOBARA

Title

VICE PRES / GEN MANAGER

Condition 6 – Prevent Recurrence

15. TRI reporting is now a line item on our ISO 14001 required, compliance calendar which is reviewed and updated annually at our EMS management review meetings.

Condition 7 – No Repeat Violations

16. No NOV's for non-reporting within the last 3 years.
17. Following is a list of Past Kyowa Violations

1998 Exceeded VOC limits (voluntary notification)
1999 Exceeded VOC limits (thermal oxidizer installation began)
2000 Exceeded VOC limits (Installation – testing completed)
2002 Exceeded HAPs limits (Title V permit pending)

Condition 8 – Other Violations Excluded

18. No
19. No
20. No

7.N/A

8. Shawn Jennings, Quality/Environmental Engineer (has since left the company), employed by Kyowa America Corporation identified our responsibility to file TRI reports.

Condition 2 – Voluntary Discovery

9. As part of the review phase of our Title V operating permit application a Part 1 MACT application was filed out. In order to do this, procedures and instructions were reviewed by Mr. Jennings. He discovered references to TRI and investigated our compliance records to verify submission of this information. Finding that Kyowa had not submitted TRI reports as required, Mr. Jennings submitted the disclosure letter.

Condition 3 – Prompt Disclosure

10. Discovery date of the reporting oversight was 7/8/03. Shawn Jennings immediately brought this to the attention of the Plant manager, Mr. Asaka. Shawn prepared the disclosure notification with Mr. Asaka's full support and the letter was immediately signed and forwarded.
11. Disclosure of the violation was completed immediately upon discovery.

Condition 4 – Independent Discovery and Disclosure

12. No

13. No

Condition 5 – Correction and Remediation

14. Remedy for the situation is in place, in that all necessary data for the TRI reports has been (and is) recorded and available.

Condition 1 – Systematic Discovery

5. The above-mentioned regulatory reporting oversights were discovered through information gathering for our TitleV operating permit as well as the proper functioning of our environmental management system.
- 6.a) During the review process of our Title V application, procedures were reviewed and information gathered for a Part 1 MACT application, our EMS procedures were applied and as a result this reporting discrepancy was uncovered.
- b) Applicable section of our EMS procedures are sent as enclosure 1, here. (Hard copy of our EMS Manual and Procedures will be mailed)
- c) Kyowa America Corporation job description for Quality/Environmental Engineer is enclosure 2, here and assigns responsibility for our regulatory compliance to that position.
- d) Implementation procedures for Kyowa America's environmental management system are contained in our EMS Manual. Kyowa America also has outside assessments of our EMS programs and procedures twice annually conducted by our ISO 14001 registrar, BSI Inc. (Certificate is enclosure 3)
- e) In addition to training our employees per procedure 4.4-03, (enclosure 4) our environmental policy is carried by each employee along with their ID card, posted through out the plant. Manuals and the manuals and procedures are available to all employees in hard copy or on the public server.
- f) Environmental management policy is covered with all employees upon hiring. That policy (including company Standard of Conduct Which outlines the disciplinary procedure for violations of company policy.)
- g) (Enclosure 5) Internal compliance audit procedure.

2001

Toluene (108883)

Methanol (67561)

Methyl Ethyl Ketone (78933)

Ethylene Glycol Monobutyl Ether (111762)

Diethylene Glycol Monobutyl Ether (112345)

2002

Aluminum (7429905)

Ethylene Glycol Monobutyl Ether (111762)

Diethylene Glycol Monobutyl Ether (112345)

2-(2 Ethoxy Ethoxy) Ethanol (111900)

4. Kyowa America "otherwise used" the following amounts of the chemicals listed above:

2000

Toluene (108883)

0.25 TPY

Methanol (67561)

0.54 TPY

Methyl Ethyl Ketone (78933)

2.31 TPY

2001

Toluene (108883)

0.01 TPY

Methanol (67561)

0.01 TPY

· Methyl Ethyl Ketone (78933)

0.15 TPY

· Ethylene Glycol Monobutyl Ether (111762)

8.82 TPY

· Diethylene Glycol Monobutyl Ether (112345)

2.67 TPY

2002

Aluminum (7429905)

0.84 TPY

· Ethylene Glycol Monobutyl Ether (111762)

13.1 TPY

· Diethylene Glycol Monobutyl Ether (112345)

2.6 TPY

· 2-(2 Ethoxy Ethoxy) Ethanol (111900)

5.3 TPY



Certificate No. FM 53989

Certificate No. EMS 5824



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

CERTIFIED MAIL RETURN RECEIPT REQUESTED

JUL 27 2004

Tadatsugu Asaka
Vice President and General Manager
Kyowa America Corporation
Pennsylvania Plant
317 East Roy Furman Highway
Waynesburg, Pennsylvania 15370

Re: In the Matter of Kyowa America Corporation, (Kyowa) Waynesburg, PA

Dear Mr. Asaka:

On or around July 24, 2003, Kyowa submitted to the United States Environmental Protection Agency (EPA) a letter self-disclosing potential violations of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11023 at its facility located in Waynesburg, PA ("the facility"). Specifically, Kyowa disclosed to EPA that the facility had failed to file toxic chemical release reports under Section 313 of EPCRA. The chemicals and years for which the facility believed it needed to report were not specified in that letter, but were so stated in Kyowa's subsequent letter submitted to EPA on May 21, 2004. EPA's review of the information submitted by Kyowa in both letters indicates that the facility should have filed a toxic chemical release report for glycol ethers for reporting years 2001 and 2002. A copy of the July 24, 2003 and May 21, 2004 letters are enclosed for your reference.

The information provided by Kyowa in its July 24, 2003 and May 21, 2004 letters was further reviewed by EPA pursuant to EPA's "Self-Disclosure Policy" 65 Fed. Reg 19618 dated April 11, 2000, ("Audit Policy") to determine if the facility was eligible for a penalty reduction pursuant to that policy (a copy of the policy is enclosed). After EPA's review of the information, it has been determined by EPA that the facility does not qualify for any penalty mitigation under the Audit Policy, since the facility failed to satisfy criterion 5 set forth in Section D of the Audit Policy. Specifically, it has been determined by EPA that Kyowa did not timely correct the violations it disclosed to EPA. Criterion 5 under Section D of the Audit Policy requires that the violations be corrected within sixty (60) calendar days from the date of discovery and that if more than 60 days are needed to correct the violations, the regulated entity must so notify EPA in writing before the 60 day period has passed. Kyowa did not file its toxic chemical release reports



Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and no process chlorine free.
Customer Service Hotline: 1-800-438-2474

RECEIVED

JUL 28 2004

TOXICS ENFORCEMENT BRANCH
EPA REGION III

for glycol ethers for calendar years 2001 and 2002 until June 1, 2004, more than ten months after discovery of the reporting violations, nor did Kyowa notify EPA prior to the expiration of the 60 day period that it would need an extension of time to correct the violations.

Section 325 of EPCRA authorizes EPA to assess penalties of up to \$25,000 per day for each violation of EPCRA Section 313. This amount has been increased to \$27,500 for violations occurring after January 30, 1997 (*see* 40 C.F.R. Part 19) through March 15, 2004, and to \$32,500 for violations occurring after March 15, 2004 (*see* 69 Fed. Reg. 7121). EPA is planning to file an administrative complaint seeking a penalty determined in accordance with the *Enforcement Response Policy for Section 313 of EPCRA* dated August 10, 1992 ("ERP"), a copy of which is enclosed.

Prior to any determination as to whether to issue an Administrative Complaint (Complaint) to Kyowa, EPA is, by this letter, giving you an opportunity to present any relevant information which you wish EPA to consider. In preparing your response, you should refer to the ERP, which describes potential reduction factors. If you wish to raise an inability to pay as an issue for EPA to consider, your response should include copies of the last three years of Kyowa's filed tax returns. You should also provide information concerning any additional factors which you believe EPA should consider regarding this matter.

EPA believes that it is advisable to explore whether this matter may be settled now, in order to conserve the resources of both Kyowa and the federal government by minimizing the burden and expense of litigation. We are prepared to confer, by conference call or in person, with representatives of Kyowa to further discuss the violations, penalties, and terms of settlement. Prior to the close of that first conference, we expect that you will advise us whether you are willing to make the required commitments to settle this case before litigation. If you believe and/or have evidence to support your belief that a penalty should not be assessed against Kyowa for these violations, please provide this information on or before the first meeting. In addition, a firm schedule for any continuing negotiations must be established prior to, or during, that first meeting, and settlement negotiations must be completed **within 90 days** of the date of this letter. Any final settlement will be subject to final approval by Management of EPA Region III.

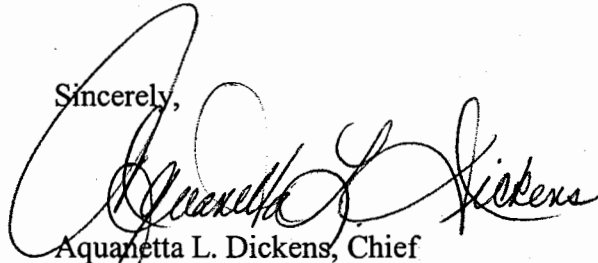
If Kyowa wishes to engage in such settlement dialogue, we request that you respond in writing **within ten (10) days of the date of this letter**. Your response should include a specific settlement offer that is responsive to EPA's settlement requirements as outlined in this letter. Kyowa's failure to provide the requested information within this time frame will result in our determination regarding issuance of a Complaint to Kyowa without consideration of any information you may wish to bring to our attention.

Please direct your written response as well as all questions and communications in regard to any matters addressed in this letter to the paralegal assigned to represent EPA:

Eugenia Y. Beale, (3RC30)
Paralegal Specialist
EPA Region III
1650 Arch Street
Philadelphia, PA 19103
Tel: (215) 814-2486

Should Kyowa and EPA not reach a settlement agreement in this matter, EPA reserves the right to take other appropriate action, including enforcement action.

Sincerely,



Aquanetta L. Dickens, Chief
Toxics Program and Enforcement Branch

Enclosures:

cc: Craig Yussen (3WC33)
Frank Fritz (3RC10)